HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5179 OF 2004.
WITH
CRIMINAL APPLICATION NO.5428 OF 2004

Sharda Mohindernath Sharma. ...Applicant.

V/s.

The State of Maharashtra & Anr. ...Respondents.

Shri S.V.Kotwal, for applicant

Shri V.B.Konde-Deshmukh, APP for respondent-State.

Shri Raja Thakare for Respondent No.2.

CORAM: A.M.KHANWILKAR,J
DATE : APRIL 26, 2005

P.C. :-

1. Heard counsel for the parties.

2. The background in which the present matter has reached to this court is that, the respondent No.2 who happens to be the daughter of the Applicant, has filed complaint with the Marine Drive Police Station being C.R.No. 83 of 2004, alleging that the Applicant has illegally detained custody of her minor male child Shankar and she apprehends danger to the life of her son. Consequent to the registration of F.I.R., concerned officer approached the Applicant and the custody of the minor male child Shankar was given to

the Respondent No.2 who is the natural mother of Shankar and daughter of Applicant herein.

3. The present petition is for quashing of the said criminal action filed against the Applicant. During the pendency of this petition, the parties were counselled with the assistance of the advocates who were appointed as amicus curiae to espouse the cause of the respective parties. The parties have favourably responded to the suggestions given by the court.

4. Having regard to the nature of the controversy, without going into the contentious matter raised in the First Information Report, parties have now agreed to reconcile to the following arrangement.

(a) The Applicant as well as respondent No.2 agree that the custody of the minor child Shankar will remain with Respondent No.2 who is his natural mother. However, the respondent No.2 shall provide access of the said minor child once in a week between 9 a.m. to 6 p.m., in the presence of respondent No.2 at the residence of Applicant at Marine Lines.

(b) The respondent No.2 assures before this

court that she will take the minor child alongwith her to the house of Applicant at Marine Lines, preferably on every Sunday. It is however, agreed between the parties that as per the convenience of the minor child as well as of the respondent No.2, the access can be provided on some other day than Sunday, but keeping in mind that access of the minor child shall be given to the Applicant atleast once in a week between 9 a.m. to 6 p.m. on the given day.

5. In view of the above arrangement agreed upon, the respondent No.2 has no intentions to pursue the criminal action against the Applicant which was filed in unusual circumstances.

6. Taking overall view of the matter and as parties have amicably resolved their differences, criminal action registered against the Applicant, initiated by the respondent No.2 under C.R.No.83 of 2004, registered with Marine Drive Police Station, is quashed and set aside, in the interest of justice, in exercise of inherent powers of this Court. Bail bond of Applicant to stand cancelled.

7. The Court expresses word of appreciation for the advocates who have appeared in the case and assisted the parties for amicable resolution of their dispute.

8. In view of the above order, both the Applications are disposed of.